

**ENTERED**

September 24, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

|                          |   |                            |
|--------------------------|---|----------------------------|
| UNITED STATES OF AMERICA | § |                            |
|                          | § |                            |
| VS.                      | § | CRIMINAL NO. 2:18-CR-882-1 |
|                          | § |                            |
| WILKY DARUM AVILA        | § |                            |

**OPINION AND ORDER GRANTING MOTION FOR CONTINUANCE**

On September 21, 2018, Defendant Avila moved for a continuance of the final pretrial conference and jury selection and trial because counsel for the Defendant had only recently been appointed to the case due to a conflict of interest of previous counsel. Defendant and counsel had not yet had adequate time to review the discovery and the Defendant had not had adequate time to consider whether he wished to have a trial or plead guilty (D.E. 32). The United States and Material Witness counsel were unopposed to the motion.


Under the Speedy Trial Act, a district court may grant a continuance and exclude the resulting delay from the time in which a trial must commence if it makes on-the-record findings that the ends of justice served by granting the continuance outweigh the public's and defendant's interests in a speedy trial. 18 U.S.C. § 3161(h)(7).

Having considered the Defendant's motion, the Court finds that the failure to grant a continuance in this case would deny counsel for the defendant the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the Court finds that the ends of justice are served by granting a continuance in this case and outweigh the best interests of the public and Defendant in a speedy trial, and the period of the continuance is excluded from speedy trial computation.

The Court **GRANTS** the Defendant's motion and **CONTINUES** the final pretrial conference until **October 23, 2018, at 9:00 a.m.** before undersigned and schedules the jury selection and trial for **November 5, 2018, at 9:00 a.m.** before Hon. Nelva Gonzales Ramos.

ORDERED this 24<sup>th</sup> day of September, 2018.

  
B. JANICE ELLINGTON  
UNITED STATES MAGISTRATE JUDGE